

Attachment D

**Inspection Report
37 York Street, Sydney**

37 York Street, Sydney



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Notes

26/02/2024

**Council investigation officer Inspection and Recommendation Report
Clause 17(2), Part 8 of Schedule 5, of the Environmental Planning and Assessment
Act 1979 (the Act)**

File: CSM 3142577

Officer: Luke Jeffree

Date: 14 March 2024

Premises: 37 York Street, Sydney

Executive Summary:

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject premises on 19 February 2024 with respect to matters of fire safety.

The premises consists of a 14 storey commercial office building with ground floor retail use located opposite Wynyard Park in Sydney.

The building appears to have been constructed circa 1960's and has been subject to several fire safety upgrades over the years including in 1991 (Ref: B/1991/90) and under a Council Fire Order in 2008 (S062597).

The premises are equipped with numerous fire safety systems (both active and passive) that would provide adequate provision for fire safety for occupants in the event of a fire. The annual fire safety certification is current and compliant and is on display within the building in accordance with the requirements of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (the Reg).

Council investigations reveal there remains several minor fire safety "maintenance and management" works to attend to (i.e signage/block plans), the overall fire safety systems provided within the subject premises are considered adequate in the circumstances.

It is considered that the above fire safety works are of a degree which can be addressed by routine preventative and corrective maintenance actions undertaken by the owner's fire service contractor(s) through written instruction from Council.

Observation of the external features of the building did not identify the existence of any potential combustible composite cladding on the façade of the building.

Chronology:

Date	Event
19/02/2024	FRNSW correspondence received regarding premises Trevest House 37 York Street Sydney.
28/02/2024	<p>City records include the most recent Annual Fire Safety Statement (AFSS) and confirm that an Accredited Practitioner (Fire Safety) had inspected the essential fire safety measures in the building in August 2023 with AFSS signed/endorsed by the owners agent on 14 September 2023. The statement was sent to and accepted by Council on 18 September 2023 pursuant to Part 12 Section 89 of the Reg.</p> <p>Council officer notes based on the applicable building regulations at the time of construction the premises was approved on the basis that its effective height was not more than 150 feet (45.72m) and was not required to be sprinkler protected to all levels. Furthermore, the officer notes that under the previous fire upgrades suitable and alternative systems for fire protection were implemented throughout the building (in lieu of sprinklers) and endorsed by FRNSW. Given no significant changes are proposed or undertaken in recent years, the subject building in its current form demonstrates a suitable level of fire safety as per previous approvals & upgrades.</p>

Date	Event
06/03/2024	<p>An inspection of the subject premises was undertaken by a Council officer in the presence of the building manager, strata manager, accredited practitioner (fire safety) and chairperson of the strata which revealed:</p> <ul style="list-style-type: none"> • Annual Fire Safety Statement (AFSS) was current and on display – expiry 14/09/24. • Fire Detection Control and Indicating Equipment (FDCIE) operational with no faults or isolations. • Plan of risk (block plan) provided adjacent to sprinkler system control valve but not at sprinkler booster assembly. • Boost pressure and test pressure signage not provided at the booster assesmby. • Block plan provided adjacent to hydrant system pump but not at hydrant booster assembly. • Storz couplings were provided to all hydrant valves. • A required colour coded diagram (showing location of fire protection equipment & services) as listed on buildings fire safety schedule appeared to be missing from inside the cupboard housing fire indicator panel. <p>With respect to the mention in FRNSW correspondence regarding fraudulent AFSS's issued in previous years, City staff are primarily concerned with the building's current fire safety measures and maintenance and as stated below a Fire Order is not recommended to address some outstanding issues.</p> <p>City's officer observed that FDCIE as mentioned in FRNSW's correspondence displayed the hydrant tank monitor as not isolated. City's Officer found the system was functioning normally</p> <p>Also, the accredited practitioner confirmed the loudspeaker as mentioned in FRNSW's correspondence had been installed too close to Emergency Warning and Intercommunication System panel (EWIS) - causing feedback and so it was disconnected. The officer accepted the practitioner's advice and verified that audible signal appeared to be appropriately distributed throughout the premises.</p>

FIRE AND RESCUE NSW REPORT:

References: [BFS24/325 (33226), D2024/015958; 2024/123462]

Fire and Rescue NSW conducted an inspection of the subject premises on 23 January 2024 after receiving an enquiry about the legitimacy of Annual Fire Safety Statements regarding the premises.

Issues The report from FRNSW detailed a number of issues, in particular.

Ref.	Issue	City response
1. Essential Fire Safety Measures		
1A	Maintenance	
A.	Fire Detection Control and Indicating Equipment (FDCIE) – The FDCIE indicated that the hydrant tank monitor was isolated. The Building Manager indicated that he was aware of the issue. FRNSW inspected the roof top tank and confirmed that it was close to capacity. The Building Manager confirmed that the isolation was due to the following:	Noted
i.	The roof-top tank serves both the hydrant system and domestic supply.	Noted

Ref.	Issue	City response
ii.	When the water level lowers, the domestic pumps operate to supply water to the tank.	Noted
iii.	The operation of the pumps sends a 'warning' signal to the FDCIE.	Noted
iv.	As the system is connect to a monitoring centre via the Alarm Signalling Equipment, the building manager isolates the tank monitor to prevent an unwanted alarm.	During Councils inspection officer noted that the hydrant tank monitor was not isolated but notwithstanding instructed building manager to not isolate the hydrant tank monitor in the future
v.	The Building Manager agreed to discuss the current system set-up with the accredited fire safety practitioner, with a view to reprogramming the system to prevent the need for isolating any part of the system. Photographic evidence was provided by the Building Manager (taken 24 January 2024) showing that the isolation had been cleared and the system returned to normal. Considering the above, no enforcement action was taken by FRNSW.	Noted. Officers' inspection verified that FDCIE displayed the hydrant tank monitor as not isolated & the accredited practitioner confirmed to the officer that the system did not in fact need to be reprogrammed
B.	Sound System for Emergency Purposes - The loudspeaker in the ground floor lobby was tagged with a label reading "disconnected due to feedback". In that regard, it is unclear whether audible warning signals are appropriately distributed in accordance with the requirements of Clause 4.3.1 of AS1670.4.	No action required. Council inspection verified that disconnected loudspeaker was tagged with label as mentioned in FRNSW correspondence, but found that the audible signals appeared to be appropriately distributed throughout the premises
1B	Sprinkler System	
A.	The premises has an effective height of more than 25m and levels 4 to 15 of the building are not sprinkler protected, contrary to the requirements of Clauses E1D4 and E1D5 of the NCC which requires sprinklers throughout the whole building.	Noted. Officer review and inspection confirms existing alternative systems of fire protection are implemented throughout the building in lieu of sprinklers
B.	A plan of risk (block plan) was not provided adjacent to the sprinkler booster, contrary to the requirements of Clause 8.3 of AS 2118.1-1999.	Corrective action letter sent.
1C	Fire Hydrant System – The fire hydrant system appears to be installed in accordance with Ordinance 70 and Ministerial Specification No.10. Notwithstanding this, the following deviations from AS2419.1-2005 have been identified, which are of concern to FRNSW:	
A.	Boost pressure and test pressure signage was not provided at the booster assembly, contrary to the requirements of Clause 7.10.1 of AS 2419.1-2005.	Corrective action letter sent.
B.	A block plan, A3 minimum size, has not been provided at the booster assembly, contrary to the requirements of Clause 7.11 of AS 2419.1-2005.	Corrective action letter sent.
C.	Storz aluminium alloy delivery couplings, which are compatible with FRNSW appliances and equipment, are not provided to all hydrant valves throughout the	No action required. Officer's inspection revealed that storz aluminium alloy

Ref.	Issue	City response
	premises, contrary to the requirements of Clauses 7.1 and 8.5.11.1 of AS 2419.1-2005.	delivery couplings have been installed to all hydrant valves throughout the premises
D.	Clause 4.2 of AS1851 requires routine services to be recorded in accordance with Clause 1.16. The hydrant booster inlets included service labels/tags indicating the booster assembly has not received any routine servicing since May 2019.	No action required. Officer's inspection revealed the hydrant booster inlets included service tags indicating that the booster assembly had received servicing in March 2024
E.	Electrical/communication cabling and pipework was installed in the internal fire hydrant cabinets, as well as stored non-fire-fighting equipment, contrary to the requirements of Clause 3.6.1 of AS2419.1-2005.	No action required. Officer's inspection revealed the internal hydrant cabinets did not contain non-firefighting equipment; cabinet was compliant with applicable installation standard and existing cabling + pipework within the cabinets was appropriately secured so as not to cause an opportunity for snagging or obstruction of access to fire service equipment
1D	Zone Block Plan – Section 3.10 of the Australian Standard 1670.1 -2018 requires a Zone Block Plan to be securely mounted and located adjacent to the FBP. At the time of the inspection, a Zone Block Plan could not be located.	Corrective action letter sent
1E	Fire Hose Reel - Non-firefighting equipment was stored within the fire hose reel cupboard within the ground floor lobby, contrary to Clause 10.4.4 of AS2441-2005.	No action required. Officer inspection revealed the internal hose reel cupboards did not contain non-fire fighting equipment, cabinet was compliant with applicable installation standard and existing cabling + pipework within the cabinets was appropriately secured so as not to cause an opportunity for snagging or obstruction of access to fire service equipment
2. Compartmentation		
2A	Fire Door - The fire door separating the 'Made In Italy' tenancy from the fire isolated passageway was chocked open, prohibiting the door from self-closing, contrary to the requirements of Clause C4D5 and C4D9 of the NCC.	No action required. Officer noted the fire door was slightly ajar and gave a verbal warning/instruction to the manager of the tenancy advising him to keep the fire door closed at all times. The manager complied immediately with officer's instruction

Ref.	Issue	City response
3. Egress		
3A	<p>Fire Isolated Passageway – Multiple items (including pizza boxes and milk crates) were stored in the fire isolated passageway, adjacent to the ‘Made In Italy’ tenancy exiting onto York Lane, that may have caused an obstruction, contrary to the requirements of Clause 109 of the DCFS Regulation.</p> <p>Staff from the tenancy were advised of the issue and agreed to remove the items. Photographic evidence was provided by the Building Manager (taken 24 January 2024) showing that the passageway had been cleared.</p>	No action required Officer inspection found the fire isolated passageway was clear of items

FRNSW is therefore of the opinion that there are inadequate provisions for fire safety within the building.

FRNSW Recommendations

FRNSW have made two recommendations within their report. In general, FRNSW have requested Council:

1. Inspect and appropriately address any other deficiencies identified on ‘the premises’ and require item 1,2 and 3 of their report to be reviewed; and
2. Advise them in writing of its determination in relation to this matter in accordance with the provisions of clause 17(4) of Schedule 5 of the Environmental Planning and Assessment Act 1979

COUNCIL INVESTIGATION OFFICER RECOMMENDATIONS:

Issue Order (NOI)	Issue emergency Order	Issue a compliance letter of instruction	Cited Matters rectified	Continue to undertake compliance action in response to issued Council correspondence	Continue with compliance actions under the current Council Order	Other (to specify)

As a result of the above site inspection undertaken by Council’s investigation officers it is recommended that the owners of the building continue to comply with the written fire safety compliance instructions as issued by Council officers to rectify the identified fire safety deficiencies noted by FRNSW. It is recommended that Council not exercise its powers to give a fire safety order at this time.

That the Commissioner of FRNSW be advised of Council’s actions and determination.

Referenced/Attached Documents:

2024/150560-01	Corrective Action Letter
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Trim Reference: 2024/150560 **CSM reference No#:** 3142577

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File Ref. No: BFS24/325 (33226)
TRIM Ref. No: D2024/015958
Contact: Conor Hackett

19 February 2024

General Manager
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Email: council@cityofsydney.nsw.gov.au

Attention: Manager Compliance/Fire Safety

Dear Sir / Madam

**Re: INSPECTION REPORT
TRIVEST HOUSE
37 YORK STREET SYDNEY ("the premises")**

Fire and Rescue NSW (FRNSW) received correspondence on 23 January 2024 concerning the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated that:

Regrettably the adjoining property is subject to the same neglect and behaviours as its neighbour.

You will be in its possession of the last 4 years of the AFSS supplied by this property (Strata Plan 22803).

I reasonably believe they are fraudulent and little to no maintenance or testing has been conducted for several years.

The current state of the FIP is indicative.

Pursuant to Section 9.32(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW inspected 'the premises' on 23 January 2024.

Fire and Rescue NSW

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Community Safety Directorate
Fire Safety Compliance Unit

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On behalf of the Commissioner of FRNSW, the comments in this report are provided under Section 9.32(4) and Schedule 5, Part 8, Section 17(1) of the EP&A Act.

The items listed in the comments of this report are based on the following limitations:

- A general overview of the building was obtained without using the development consent conditions or approved floor plans as a reference.
- Details of the Provisions for Fire Safety and Fire Fighting Equipment are limited to a visual inspection of the parts in the building accessed and the fire safety measures observed at the time.

COMMENTS

This report is limited to observations and sections of the building accessed at the time of the inspection. As such, this report lists potential deviations from the National Construction Code 2022 Building Code of Australia – Volume One (NCC). Please be advised that whilst the report is not an exhaustive list of non-compliances, the items as listed may relate to the building's age or contradict development consent approval. In this regard, it is at council's discretion as the appropriate regulatory authority to consider the most appropriate action and determine whether an investigation is required.

The following items were identified during the inspection:

1. Essential Fire Safety Measures

- 1A. Maintenance – Clause 81 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (the DCFS Regulation) requires that an Essential Fire Safety Measure must be maintained to a standard no less than when it was first installed. At the time of the inspection, the following was noted:

- A. Fire Detection Control and Indicating Equipment (FDCIE) – The FDCIE indicated that the hydrant tank monitor was isolated. The Building Manager indicated that he was aware of the issue. FRNSW inspected the roof top tank and confirmed that it was close to capacity.

The Building Manager confirmed that the isolation was due to the following:

- i. The roof-top tank serves both the hydrant system and domestic supply.
- ii. When the water level lowers, the domestic pumps operate to supply water to the tank.
- iii. The operation of the pumps sends a 'warning' signal to the FDCIE.

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- iv. As the system is connect to a monitoring centre via the Alarm Signalling Equipment, the Building Manager isolates the tank monitor to prevent an unwanted alarm.
- v. The Building Manager agreed to discuss the current system set-up with the accredited fire safety practitioner, with a view to reprogramming the system to prevent the need for isolating any part of the system.

Photographic evidence was provided by the Building Manager (taken 24 January 2024) showing that the isolation had been cleared and the system returned to normal.

Considering the above, no enforcement action was taken by FRNSW.

- B. Sound System for Emergency Purposes - The loudspeaker in the ground floor lobby was tagged with a label reading "disconnected due to feedback". In that regard, it is unclear whether audible warning signals are appropriately distributed in accordance with the requirements of Clause 4.3.1 of AS1670.4.

1B. Sprinkler System –

- A. The premises has an effective height of more than 25m and levels 4 to 15 of the building are not sprinkler protected, contrary to the requirements of Clauses E1D4 and E1D5 of the NCC which requires sprinklers throughout the whole building.
- B. A plan of risk (block plan) was not provided adjacent to the sprinkler booster, contrary to the requirements of Clause 8.3 of AS 2118.1–1999.

1C. Fire Hydrant System – The fire hydrant system appears to be installed in accordance with Ordinance 70 and Ministerial Specification No.10. Notwithstanding this, the following deviations from AS2419.1-2005 have been identified, which are of concern to FRNSW:

- A. Boost pressure and test pressure signage was not provided at the booster assembly, contrary to the requirements of Clause 7.10.1 of AS 2419.1-2005.
- B. A block plan, A3 minimum size, has not been provided at the booster assembly, contrary to the requirements of Clause 7.11 of AS 2419.1–2005.
- C. Storz aluminium alloy delivery couplings, which are compatible with FRNSW appliances and equipment, are not provided to all hydrant valves throughout the premises, contrary to the requirements of Clauses 7.1 and 8.5.11.1 of AS 2419.1-2005.

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- D. Clause 4.2 of AS1851 requires routine services to be recorded in accordance with Clause 1.16. The hydrant booster inlets included service labels/tags indicating the booster assembly has not received any routine servicing since May 2019.
 - E. Electrical/communication cabling and pipework was installed in the internal fire hydrant cabinets, as well as stored non-fire-fighting equipment, contrary to the requirements of Clause 3.6.1 of AS2419.1-2005.
- 1D. Zone Block Plan – Section 3.10 of the Australian Standard 1670.1 -2018 requires a Zone Block Plan to be securely mounted and located adjacent to the FBP. At the time of the inspection, a Zone Block Plan could not be located.
- 1E. Fire Hose Reel - Non-firefighting equipment was stored within the fire hose reel cupboard within the ground floor lobby, contrary to Clause 10.4.4 of AS2441-2005.

2. Compartmentation

- 2A. Fire Door - The fire door separating the 'Made In Italy' tenancy from the fire isolated passageway was chocked open, prohibiting the door from self-closing, contrary to the requirements of Clause C4D5 and C4D9 of the NCC.

3. Egress

- 3A. Fire Isolated Passageway – Multiple items (including pizza boxes and milk crates) were stored in the fire isolated passageway, adjacent to the 'Made In Italy' tenancy exiting onto York Lane, that may have caused an obstruction, contrary to the requirements of Clause 109 of the DCFS Regulation.

Staff from the tenancy were advised of the issue and agreed to remove the items. Photographic evidence was provided by the Building Manager (taken 24 January 2024) showing that the passageway had been cleared.

FRNSW believes that there are inadequate provisions for fire safety within the building.

RECOMMENDATIONS

FRNSW recommends that Council:

- a. Review items 1, 2 & 3 of this report and conduct an inspection.
- b. Address any other deficiencies identified on "the premises".

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Please be advised that Schedule 5, Part 8, Section 17(2) requires any report or recommendation from the Commissioner of FRNSW to be tabled at a Council meeting. This matter is referred to Council as the appropriate regulatory authority. FRNSW awaits the Council's advice regarding its determination under Schedule 5, Part 8, Section 17 (4) of the EP&A Act.

Please do not hesitate to contact Conor Hackett of FRNSW's Fire Safety Compliance Unit at FireSafety@fire.nsw.gov.au or call (02) 9742 7434 if there are any questions or concerns about the above matters. Please refer to file reference BFS24/325 (33226) regarding any correspondence concerning this matter.

Yours faithfully



Conor Hackett
Senior Building Surveyor
Fire Safety Compliance Unit